

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

CHRISTOPHER CALDWELL,

Petitioner,

Civil Case No. 03-CR-80152

v.

DIST. JUDGE PAUL D. BORMAN

UNITED STATE OF AMERICA,

MAG. JUDGE DONALD A. SCHEER

Respondent.

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**ORDER ADOPTING MAGISTRATE JUDGE’S REPORT AND
RECOMMENDATION IN FAVOR OF (1) DENYING PLAINTIFF’S PETITION FOR A
WRIT OF HABEAS CORPUS (2) DENYING A CERTIFICATE OF APPEALABILITY**

Before the Court is the Magistrate Judge’s January 9, 2008 Report and Recommendation in favor of dismissing Petitioner’s Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. §§ 2241 and 2255.¹ (Dkt. No. 99). Having reviewed that Report and Recommendation, and there being no objections, the Court enters as its findings and conclusions the Report and Recommendation **DISMISSING** Plaintiff’s Petition Writ of Habeas Corpus.

Under 28 U.S.C. § 2253, a court must assess whether to grant the issuance of a certificate of appealability to Petitioner’s claims. *Castro v. United States*, 310 F.3d 900, 903 (6th Cir. 2002) (finding the § 2253 analysis may be done at the time a claim for relief is determined.) Pursuant to § 2253, and the Supreme Court decisions in *Slack v. McDaniel*, 529 U.S. 473 (2000) and *Barefoot v. Estelle*, 463 U.S. 880, 893 (1983), the certificate of appealability will issue if the resolution of the petition is debatable among reasonable jurists.

Upon review of this action, the Court concludes that reasonable jurists would not find

¹ The Magistrate Judge properly construed Petitioner’s claims as arising under both § 2241 and § 2255.

Petitioner's claims debatable with respect to the substantive basis for denying relief as to any issue asserted. Therefore, a certificate of appealability is **DENIED** as to all issues.

SO ORDERED.

s/Paul D. Borman
PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: February 28, 2008

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on February 28, 2008.

s/Denise Goodine
Case Manager